



**UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
06/6,9740	02/06/84	LIVEN	1007-013676

BANNER, BIRCH, MCKIE & BECKETT
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WASHINGTON, DC 20005

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AUG - 7 1985

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EXAMINER	
ART UNIT	PAPER NUMBER
107	5

DATE MAILED: 08/11/85

This is a **BANNER, BIRCH, MCKIE & BECKETT** examination in charge of your application.
MCKIE & BECKETT OF PATENTS AND TRADEMARKS

Sept. 4, 1985

☒ This application has been examined. ☐ Responsive to communication filed on _____ ☐ This action is made final.
for restriction purposes only
A shortened statutory period for response to this action is set to expire _____ month(s), 30 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449 | 4. <input type="checkbox"/> Notice of informal Patent Application, Form PTO-152 |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474 | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-30 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☐ Claims _____ are rejected.
5. ☐ Claims _____ are objected to.
6. ☒ Claims 1-30 are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. These drawings are ☐ acceptable; ☐ not acceptable (see explanation).
10. ☐ The ☐ proposed drawing correction and/or the ☐ proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved. ☐ disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
12. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

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Art Unit 127

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-10, drawn to a hybridoma and the monoclonal antibody that it produces, classified in Class 435, subclass 240.

II. Claims 11-22, drawn to a method of producing purified stem cells, classified in Class 435, subclass 240.

III. Claims 23-26, drawn to a purified cell product, classified in Class 435, subclass 240.

IV. Claims 27-30, drawn to a method of medical treatment, classified in Class 424, subclass 95.

Inventions I and II are related as product and process of use.

The inventions are distinct if either (1) the process for using the product as claimed can be practiced with another and materially different product, or (2) the product as claimed can be used in a materially different process of using the product. MPEP 806.05(h).

In this case, the process as claimed can be practiced with another materially different product such as a polyvalent antiserum or a different hybridoma and monoclonal antibody. Moreover, the hybridoma and monoclonal antibody can be used in a different process, for example, in an assay system.

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Art Unit 127

Inventions II and III are related as process of making and product made.

The inventions are distinct if either (1) the process as claimed can be used to make another and materially different product, or (2) the product as claimed can be made by another and materially different process. MPEP 806.05(f).

In this case, the product as claimed can be made by a materially different process, such as cloning and culturing a single stem cell, or by purifying a stem cell population using a polyclonal antisera.

Inventions III and IV are related as product and process of use.

The inventions are distinct if either (1) the process for using the product as claimed can be practiced with another and materially different product, or (2) the product as claimed can be used in a materially different process of using the product. MPEP 806.05(h).

In this case, the product as claimed can be used in a materially different process such as pharmaceutical testing or standardization.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement may be traversed.

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Art Unit 127

A telephone call was made to Mr. Dale Hoscheit on July 22, 1985 to request an oral election to the above restriction requirement, but did not result in an election being made.

Any inquiry concerning this communication should be directed to Jean A. Heck at telephone number 703-557-3920.

P.4
Heck:bjk

A/C 703

557-3920

7/29/85

THOMAS G. WISEMAN
SUPERVISORY PATENT EXAMINER
ART UNIT 127

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